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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,079	04/15/2005	Esa Morsky	3502-1062	3306
466	7590	10/30/2006		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER CHAET, MARISSA W	
			ART UNIT 1722	PAPER NUMBER

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/501,079

Applicant(s)

MORSKY ET AL.

Examiner

Marissa W. Chaet

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/9/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/9/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/9/04, 8/26/04, 6/14/05
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities (1) on page 2, line 4, the words "such as to" should be deleted; and (2) on page 2, line 5, the word "if" should be replaced with "is". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Arkenbout (EP 0054328).
4. Regarding claim 1, Arkenbout teaches a chamber for crystallization with an acoustic generator that is capable of generating a sound intensity of at least 100 dB for loosening the crystalline product from the walls of the chamber. See Drawing, #4. A decibel is "a unit for expressing the relative intensity of sounds on a scale from zero for the average least perceptible sound to about 130 for the average pain level." See Merriam-Webster Dictionary. Ultrasonic is defined as "having a frequency above the human ear's audibility limit of about 20,000 hertz." *Id.* Because Arkenbout teaches a frequency range of 10,000 to 50,000 Hz, it discloses audible and inaudible ranges, and

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thus, is capable of teaching a decibel range higher than 100 dB. See page 4, lines 14-19.

5. Regarding claim 2, Arkenbout teaches a chamber with a top wall and an acoustic generator that is mounted to the wall. See Drawing, #1, 2.

6. Claim 3-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Setzer (US 6,444,181).

7. Regarding claim 3, Setzer teaches a method for the preparation for crystallization with an acoustic generator that is capable of generating a sound intensity of at least 100 dB for loosening the crystalline product from the walls of the chamber. See Setzer, col. 2, lines 12-19. Because Setzer teaches a frequency range of 100 to 100,000 Hz, it discloses audible and inaudible ranges, and thus, is capable of teaching a decibel range higher than 100 dB. See para. 4 for decibel range discussion.

8. Regarding claim 4, Setzer teaches a method for the preparation of crystallization with an acoustic generator that is capable of generating a sound intensity of at least 120 dB. See Setzer, col. 2, lines 12-19. See also para. 4 for decibel range discussion.

9. Regarding claim 5, Setzer teaches a method for the preparation of crystallization where the sound frequency is between 5 and 20,000 Hertz. See Setzer, col. 2, lines 12-19.

10. Regarding claim 6, Seizer teaches sound oscillations within a certain period of time. See col. 2, lines 35-39.

11. Regarding claim 7, Seizer teaches sound oscillations at certain intervals of time. See col. 2, lines 35-39.

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12. Regarding claim 8, Setzer teaches a method for removing a crystalline product from the walls of a chamber where the sound intensity generated by an acoustic generator is at least 100 dB. See Setzer, col. 1, lines 48-51. See also para. 4 for decibel range discussion. "Removing" a product from the walls of a chamber is equivalent to "loosening" a product from the walls of a chamber.

13. Regarding claim 9, Setzer teaches the continuous removal of a crystalline product. See Setzer, col. 1, lines 48-51. Removal, or loosening, is continuous when the chamber is in use.

14. Regarding claim 10, Setzer teaches the use of an acoustic generator capable of generating a sound of at least 100 dB for loosening the crystalline product from the walls of a chamber. See Setzer, col. 1, lines 48-51. See also para. 4 for decibel range discussion.

15. Regarding claim 11, Setzer teaches a sound frequency of between 5 and 20,000 Hertz. See Setzer, col. 2, lines 12-19.

16. Since all the limitations are met, the above claims are anticipated.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa W. Chaet whose telephone number is 571-272-8094. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWC  
October 26, 2006



ROBERT DAVIS  
PRIMARY EXAMINER  
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10/26/06